

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 14, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No: 08MD-046
MAUI

Cancellation of Grant of Easements bearing Land Office Deed No. S-24803; Rescind Prior Board Action of September 27, 1996 (D-6); Set Aside to County of Maui, Department of Water Supply for Water Storage Tank Together With Access (Roadway) and Water Transmission Line Easements; and Authorize the Issuance of a Management Right-of-Entry Permit to the County of Maui, Department of Water Supply, Kealahoa, Ukumehame, Wailuku, Maui, Tax Map Key: (2) 3-6-001:portion of 14

APPLICANT:

County of Maui, Department of Water Supply

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Kealahoa, Ukumehame, situated at Wailuku, Maui, identified by Tax Map Key: (2) 3-6-001:portion of 14, as shown on the attached map labeled Exhibit A.

AREA:

New tank site= .731 acres, more or less.
Access (roadway) easement (includes portion of old and new)= 7.703 acres, more or less.
Waterline easements= .283 acres, more or less.

ZONING:

State Land Use District: Conservation
County of Maui CZO:

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____ NO
____ x

CURRENT USE STATUS:

Encumbered by Grant of Easements bearing Land Office Deed No. S-27700, Maui Electric Co., Ltd. for electric transmission and distribution lines and poles.

Encumbered by Grant of Easements bearing Land Office Deed No. S-27379, Hawaiian Telephone Co. for telephone transmission lines

Encumbered by Deed bearing Land Office Deed No. S-18671, Maui Electric Co., Ltd. for electric transmission line.

PURPOSE:

Water Storage Tank Together with Access (Roadway) and Transmission Line Easements.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

The Board approved on November 17, 1995, under agenda Item H-5, the County of Maui's Conservation District Use Application (MA-2773). (Exhibit B)

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

In 1995, the current water storage facilities for fire protection in the Maalaea area was inadequate. Construction of the proposed water storage tank, transmission lines, and related

facilities will provide improved water distribution and fire flow capabilities to service the existing Maalaea community. The proposed project is also intended to meet the fire flow and water distribution needs of the proposed Maalaea Triangle mixed-use commercial development. The Maalaea Triangle Partnership, and the Maui County Board of Water Supply have entered into a joint agreement for purposes of constructing the tank and related facilities in order to provide adequate service for the existing Maalaea community and the Maalaea Triangle project. Water storage for this area had previously been provided by two 12,000 gallon steel tanks located at the 120 foot elevation. These tanks were in disrepair and were to be demolished.

On November 17, 1995, under agenda Item H-5, the Board approved the Department of Water Supply conservation district use application (CDUA MA-2773) for a subdivision and the construction of a new 300,000 gallon water storage tank, access road and water transmission line. In context of the Special Management Area (SMA) application for the Maalaea Triangle project in 1989, the construction of the water storage tank and related improvements were seen as one of the project's necessary off-site improvements and were included in the Maui Planning Commission's SMA review of the Maalaea Triangle project (Docket No.89/SM1-03).

On September 27, 1996, under agenda Item D-6, the Board approved and amended staff's recommendation to authorize the issuance of a perpetual, non-exclusive easement for a new water storage tank to the County of Maui, Board of Water Supply. The Board further amended its approval by revising Condition No. 8 to require the Preservation Plan to be approved by the Division of Historic Preservation. (Exhibit C)

Recently the Maui Land Division received a written request from the County of Maui's Department of Water Supply for a set aside disposition instead of the previously requested perpetual easement. The Department of Water Supply informed us the construction of the 0.3 MG tank has been completed.

Staff inspected Grant of Easements bearing Land Office Deed No. S-24803 and the County of Maui staff has cleaned the water tank site, but there are some minor concrete rubble that needs to be removed. (Exhibit D) Therefore, this easement will have to be cancelled because the water tank site is no longer needed by the County of Maui. The portions of the old access (roadway) and transmission line easements will be incorporated into the new set aside to the County of Maui.

Comments were solicited to:

County of Maui, Planning	No response
County of Maui, Public Works	No response
County of Maui, Department of Water	No objections
Dept of Hawaiian Home Lands	No response

Office of Hawaiian Affairs	No response
OCCL	No objections.

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Cancellation of Grant of Easements bearing Land Office Deed No. S-24803;
2. Rescind Prior Board Action of September 27, 1996 (D-6);
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to County of Maui, Department of Water Supply under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance of a management right-of-entry permit to the County of Maui, Department of Water Supply, covering the subject area, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Larry Pacheco
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



TRUE NORTH
SCALE: 1 IN. = 200 FT.

170°48'
145.09

260°48'
242.04

**PROPOSED
0.3 M.G. TANK LOT**
(31,874 Sq.Ft.)

80°48'
200.85

7223.12 S
3808.17 W

"PUU HELE" Δ

350°48'
39.74

28°32'
67.30

350°48'
52.12

PROPOSED EASEMENT A
(20 ft. wide)
for waterline and
roadway purposes

Portion of Existing
Road Easement
(to be abandoned)

PROPOSED EASEMENT B
(15 ft. wide)
for waterline purpose

Existing Water Tank Site
(to be abandoned)

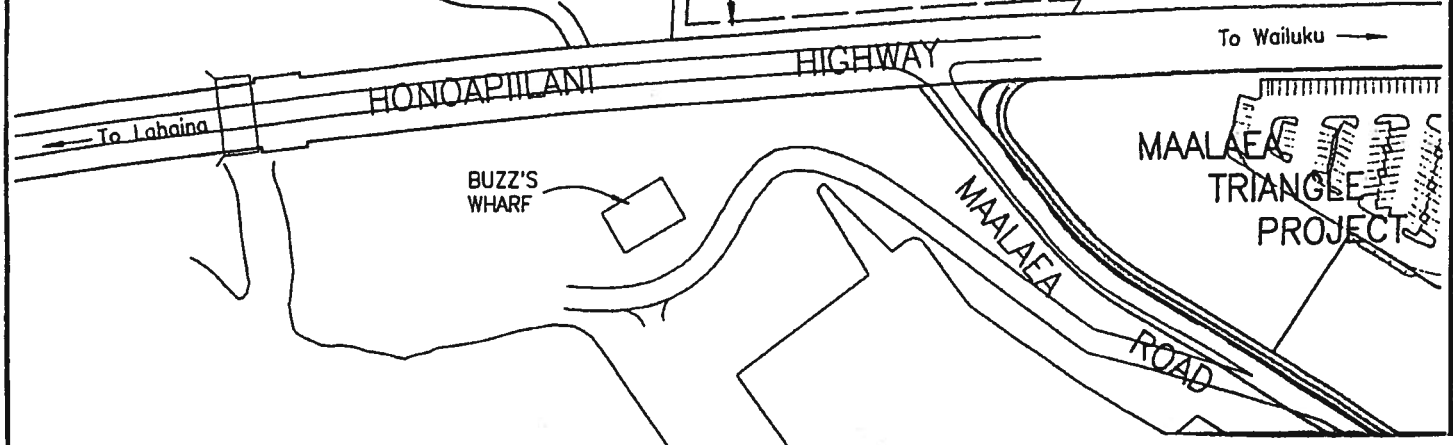
Existing 15 ft. wide
Waterline Easement

Existing 20 ft. wide
Road Easement

PROPOSED EASEMENT C
(15 ft. wide)
for waterline purpose

RECEIVED
MAR 11 1995
OCEA

RECEIVED
MAR 11 1995
PM 2:47



BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P.O. BOX 621
HONOLULU, HAWAII 96809

MICHAEL D. WILSON
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTY
GILBERT S. COLOMA AGARAN

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT
WATER RESOURCE MANAGEMENT

DEC 14 1995

FILE NO.: MA-2773

The Honorable Dave Craddick, Director
Department of Water Supply
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

Dear Mr. Craddick:

Subject: Conservation District Use Application for the
Construction of a New 300,000-Gallon Water Storage
Tank, Access Road and Water Transmission Line and the
Subdivision of 31,874 Square Feet (Tank Site)

We are pleased to inform you that your Conservation District Use
Application for the above-referenced subject was approved by the
Board of Land and Natural Resources on November 17, 1995 subject
to the following conditions:

1. Archaeological data recovery work at Site 4138 (Features A and B) and 4139 (Features B and C), possibly A) shall be conducted. A data recovery plan shall be submitted for review and approval by the Historic Preservation Division prior to initiation of any work;
2. The applicant shall submit a Preservation Plan which outlines protection and avoidance of the petroglyphs at Sites 3555, 4138 and 4139; the non-petroglyph features at Site 3555 and 4139 (with the exception of those undergoing data recovery); and adjacent sites that were not recorded during this survey;

EXHIBIT "B"

3. Since this approval is for use of Conservation District land only, the applicant shall obtain the requested easement from the Land Division, State Department of Land and Natural Resources for the occupancy of State-owned land;
4. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-5-42, Hawaii Administrative Rules, including any Federal Aviation Administration (FAA) and Department of Transportation (DOT) clearances or permits;
5. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death caused by or resulting from any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
6. The construction, alteration, moving, demolition and repair of any building or other improvement on land within the Conservation District shall be subject to the building and grading codes of the County of Maui; provided that prior to the commencement of any construction, alteration, or repair of any building or other improvement, four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson or an authorized representative, provided further that, any alteration or repair which does not change or expand on the existing land use shall not be subject to the above;
7. Areas denuded of vegetation shall be revegetated within thirty (30) days;
8. There shall be no dumping of trash, rubbish, debris, dirt, etc., allowed on the State-owned land, all debris and excess construction materials shall be removed from the project areas;
9. The applicant shall comply with all applicable Department of Health Administrative Rules;
10. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use;

11. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void; and
12. Other terms and conditions as prescribed by the Chairperson.

Please acknowledge receipt of this permit, with the above noted conditions, in the space provided below. Please sign two (2) copies. Retain one and return the other within thirty (30) days.

Should you have any questions on any of these conditions, please contact Lauren Tanaka, Planning and Technical Services Branch of the Land Division, at 587-0421.

Aloha,

Michael D. Wilson
for MICHAEL D. WILSON

Receipt acknowledged:

[Signature]
Applicant's Signature

Date 12/19/95

cc: Maui Board Member
Maui Land Agent
Maui Planning Dept.
DOH/OHA/OSP/DOT

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Land Management Branch
Honolulu, Hawaii 96813

September 27, 1996

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

MAUI

REQUEST FOR A DIRECT ISSUANCE OF A PERPETUAL,
NON-EXCLUSIVE EASEMENT FOR NEW WATER STORAGE TANK PURPOSES,
AND AN IMMEDIATE RIGHT OF ENTRY FOR SITE CONTROL
PURPOSES OVER, UNDER, ACROSS AND ON GOVERNMENT LANDS
IDENTIFIED BY TAX MAP KEY: 3-6-01: 14,
SITUATE AT KEALALOLOA, UKUMEHAME, MAALAKA, MAUI

STATUTE: Section 171-13 and other applicable sections, Hawaii
Revised Statutes, as amended.

APPLICANT: County of Maui, Board of Water Supply

FOR: The construction of a new 300,000 gallon water storage
tank, transmission lines, access road and other
necessary appurtenances on government lands identified
as TMK: 3-6-01: 14, as shown outlined in red on the map
labeled Land Board Exhibit "A", and also reflected in
the plot plan labeled as Exhibit "B", appended to the
basic file.

LAND TITLE
STATUS: Subsection 5(B) lands.

STATUS: Unencumbered lands.

ZONING: State Land Use Commission District Boundary
Classification: Conservation District
Maui County Zoning: None

AREA: 3,414.717 acres

PURPOSE:

- a. Right, privilege and authority to access,
construct, use and maintain a new 300,000 gallon
water storage tank, transmission lines, access
road and other necessary appurtenances, over,
under, across and on State-owned lands; and
- b. An immediate right of entry for site control
purposes on the subject State-owned lands.

CONSIDERATION: Gratis.

EXHIBIT "C"

OTHER TERMS
AND CONDITIONS:

Authorize the Board Chairperson to impose additional terms and conditions which may best serve the interest of the State.

CHAPTER 343 -
ENVIRONMENTAL
ASSESSMENT:

The notice of negative declaration was published in the April 8, 1995 OEQC bulletin, and the final declaration was issued on May 8, 1995.

CONSERVATION
DISTRICT USE
PERMIT:

Conservation District Use Application was approved by the Board of Land and Natural Resources on November 17, 1995.

REMARKS:

The Immediate Right of Entry will be utilized by the County of Maui and Maalaea Triangle Partnership to construct a new water storage tank, transmission lines, access road and other necessary appurtenances. Maalaea Triangle Partnership, owners of the Maalaea Triangle property located on the makai side of Honoapiilani Highway, have entered into a joint agreement to construct the water storage tank and related facilities to provide adequate service for the existing Maalaea Community and the Maalaea Triangle project. The proposed use will be owned and maintained by the County of Maui, Department of Water Supply as stated on Page 9 of the CDUA (Rev. 12/94).

RECOMMENDATION:

That the Board:

- A. Authorize the direct issuance of a perpetual, non-exclusive easement to the County of Maui for construction and maintenance purposes, covering the above described area under the preceding terms and conditions which are by this reference incorporated herein, and to the following additional terms and conditions:
1. Standard abandonment clause.
 2. Standard indemnity and hold harmless clause.
 3. Standard relocation clause.
 4. Standard assignment premium clause.
 5. Standard sublease clause with the standard sublease premium clause.

6. Prior to the termination of the subject easement or the assignment of the easement, grantee shall conduct a Level One (1) Hazardous Waste Evaluation and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency and the Department of Land and Natural Resources. Neither the termination nor assignment will be approved by the Board of Land and Natural Resources unless this evaluation and abatement provision is completely executed.
 7. Easement documents shall be reviewed and approved by the Attorney General's office.
 8. Other terms and conditions as may be prescribed by the Chairperson.
 9. The Grant of Easement shall have the approval of the Governor of the State of Hawaii and the State Legislature.
- B. Approve the construction right of entry subject to the following terms and conditions:
1. Commencement date of the subject right of entry shall be upon Board's approval, and shall terminate upon the issuance of the easement documents.
 2. The applicant shall indemnify and hold harmless the State of Hawaii, its officers, employees, and agents harmless against all claims for personal injury, death, or property damage caused by or in any way connected with the permission granted herein.
 3. The applicant shall obtain a liability insurance policy with the State of Hawaii named as an additional insured and the following minimum limits established on said policy:

Bodily Injury . . . \$500,000.00.
Property Damage . . 100,000.00
Medical Benefits . . . \$5,000.00
 4. The applicant shall be responsible for cleaning and/or restoring the area to its original condition or to a condition satisfactory to the Department of Land and Natural Resources upon completion of construction.

5. The applicant shall comply with all applicable rules, regulations, ordinances and statutes of the Federal, State and County governments relative to the use of the subject area, including those relating to public health and safety.
7. Archaeological data recovery work at Sites 4138 (Features A and B) and 4139 (Features B, C and possibly A), shall be conducted. A data recovery plan shall be submitted for review and approval by the Historic Preservation Division prior to initiation of any work.
8. The applicant shall submit a Preservation Plan which outlines protection and avoidance of the petroglyphs at Sites 3555, 4138, and 4139; the non-petroglyph features at Site 3555 and 4139 (with the exception of those undergoing recovery); and adjacent sites that were not recorded during this survey.
9. The Department of Land and Natural Resources and its Chairperson reserves the right to impose additional terms and conditions if it is deemed necessary.

Respectfully submitted,


PHILIP OHTA
Maui District Land Agent

APPROVED FOR SUBMITTAL:

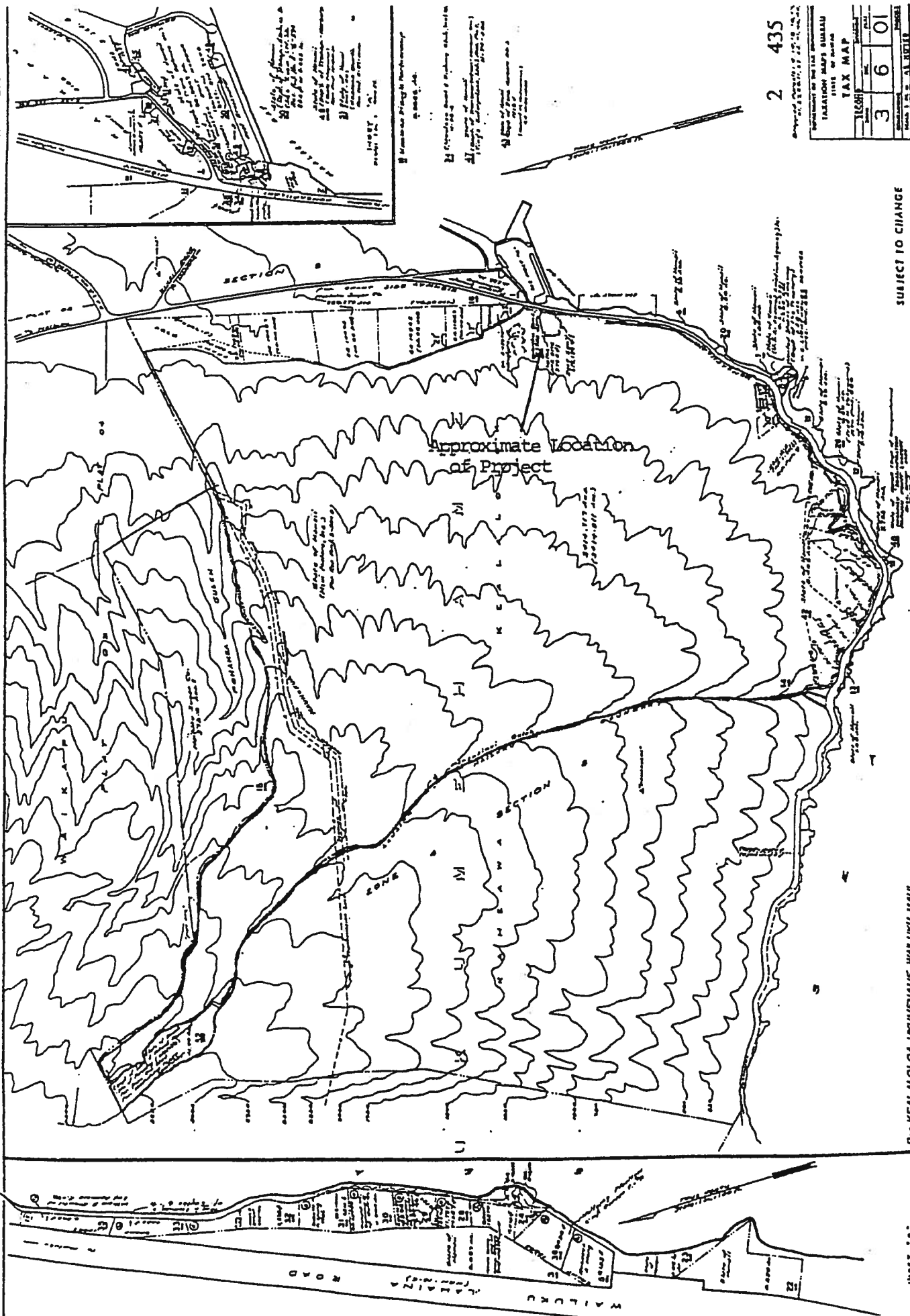

MICHAEL D. WILSON, Chairperson

The Board amended Condition No. 8 to read as follows:

8. The applicant shall submit a Preservation Plan, approved by the Division of Historic Preservation, which outlines.....

APPROVED, AS AMENDED, BY THE
BOARD OF LAND AND NATURAL
RESOURCES AT ITS MEETING HELD

ON 9-27-96

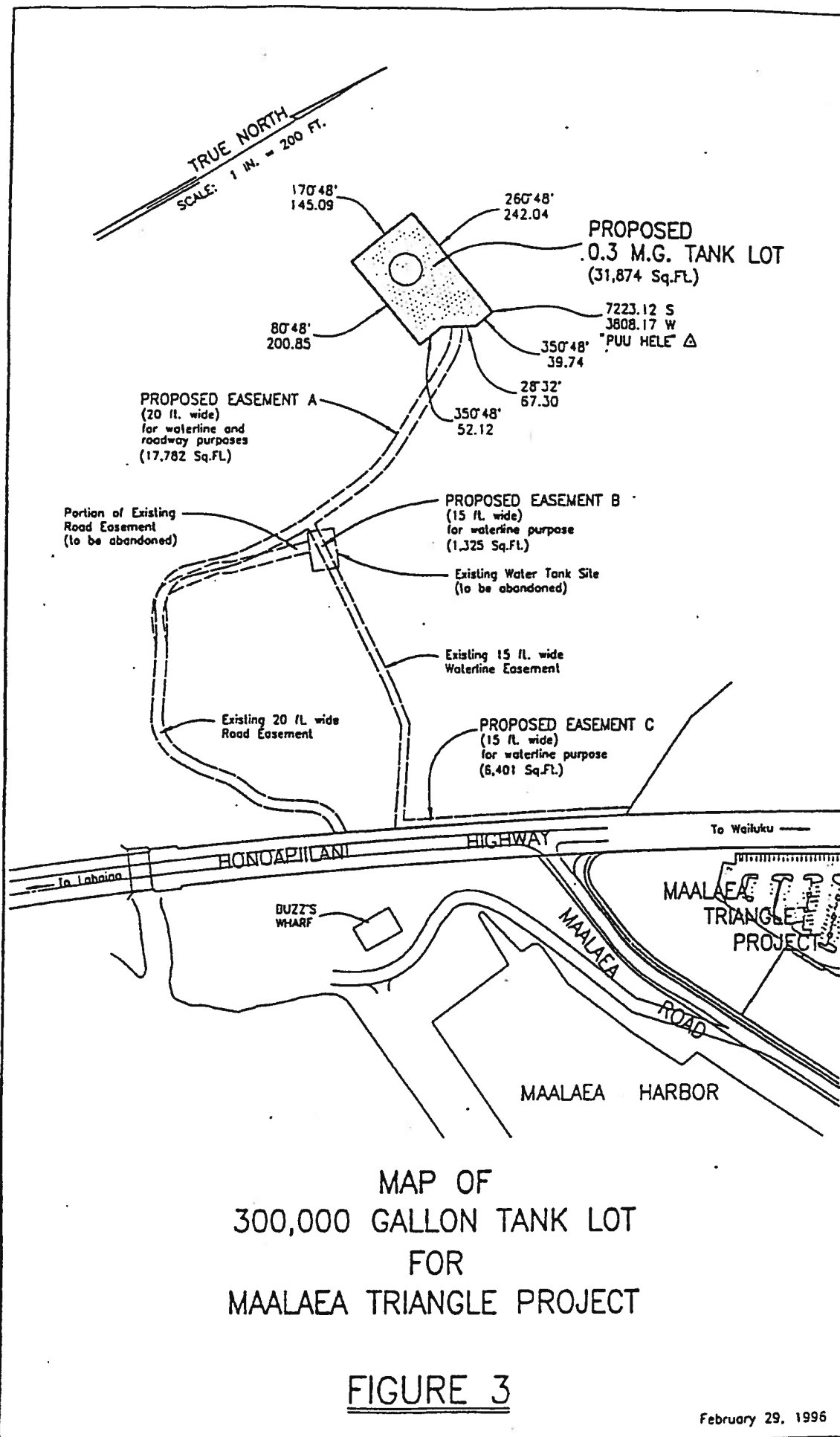


SUBJECT TO CHANGE

POX KEALALOLOA, URUMEHANE. WAKU KU MALI

INDEX

LAND BOAT EXHIBIT A



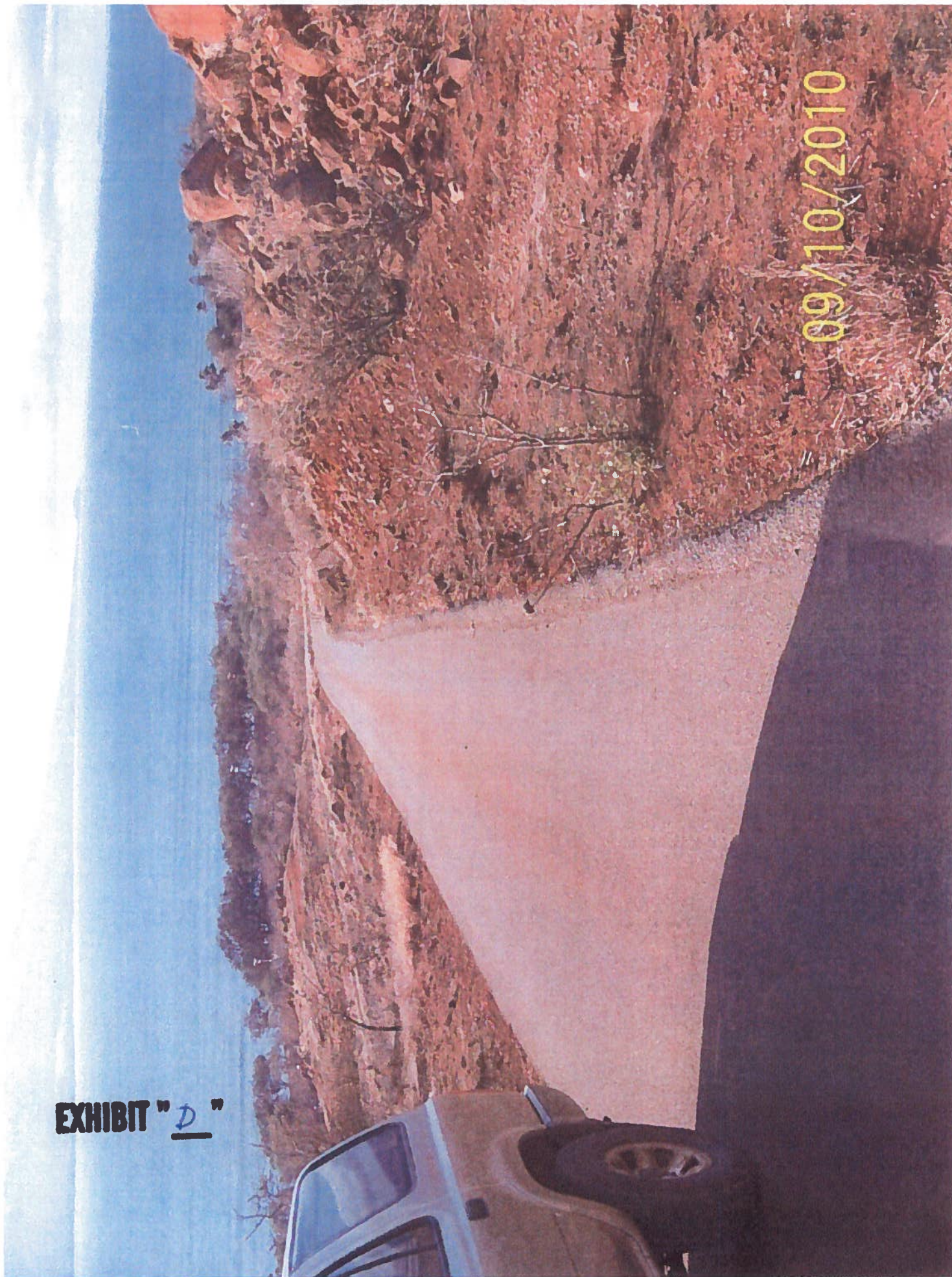
LAND BOARD EXHIBIT B

projects\87036\maps\tank-lot

February 29, 1996

EXHIBIT "D"

09/10/2010





09/10/2010



County of Maui, Maalaea Site



Old Water Tank Site LOD-24803, (2) 3-6-001:014 Por.



Concrete debris and metal piping found on the subject State land at the old water tank site.

